

APPEAL NO. 030511
FILED APRIL 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 7, 2002, and completed on January 31, 2003. The hearing officer decided that the respondent (claimant) reached maximum medical improvement (MMI) on January 18, 2002, as certified by the Texas Workers' Compensation Commission (Commission)-selected designated doctor; the claimant's impairment rating (IR) is 6%; and that the claimant had disability resulting from the compensable injury of _____, for the period beginning on January 7 and continuing through January 11, 2000, and for the period January 26, 2000, and continuing through the date of the CCH. The appellant (carrier) appeals and the claimant responds, urging affirmance. The determination that the claimant's impairment rating IR is 6% was not appealed and is final. Section 410.169.

DECISION

Affirmed.

Section 408.122(c) provides, in part, that the report of the designated doctor has presumptive weight, and the Commission shall base its determination of MMI on that report unless the great weight of the other medical evidence is to the contrary. Generally, medical evidence, not lay testimony, is the evidence required to overcome the presumptive weight accorded the designated doctor's report. Texas Workers' Compensation Commission Appeal No. 92166, decided June 8, 1992. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) provides that the designated doctor's response to a request for clarification is also considered to have presumptive weight, as it is part of the designated doctor's opinion. See *also*, Texas Workers' Compensation Commission Appeal No. 013042-s, decided January 17, 2002. There was conflicting evidence regarding the correct date of MMI. The hearing officer, as finder of fact, is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer's decision that the great weight of the other medical evidence is not contrary to the designated doctor's certification of MMI is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In addition, whether the claimant had disability from his compensable injury was a factual question for the hearing officer to resolve. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision is supported by sufficient evidence. Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BEN SCHROEDER
12222 MERIT DRIVE
DALLAS, TEXAS 75251.**

Roy L. Warren
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge